



# National Labor Relations Board

## Weekly Summary of NLRB Cases

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CASES SUMMARIZED  
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*American Benefit Corp.* (9-CA-44679, 44701; 354 NLRB No. 129), Huntington, WV Jan. 8, 2010. The Board adopted the administrative law judge's conclusion that the Respondent violated Section 8(a)(5) of the Act, by unilaterally transferring bargaining unit work to offsite temporary employees without notifying the Union or providing it with an opportunity to bargain. In so doing, the Board agreed with the judge that the Respondent failed to prove that the Union made a "clear and unmistakable waiver" of its statutory right to bargain about this mandatory bargaining subject. In a personal footnote, Member Schaumber emphasized his continued adherence to the position that the Board should apply a "contract coverage" test, and that he adopted the judge's application and interpretation of the Board's "clear and unmistakable" standard for institutional reasons. In his view, the judge's finding of a Section 8(a)(5) refusal to bargain violation on the instant facts "is consistent with the manner in which the Board has inferred ambiguity from perceived inconsistencies in contractual provisions" under the "clear and unmistakable waiver" test. In reply, Chairman Liebman emphasized the judge's "cogent discussion of the obvious tension between Article 31 and the MOA, which creates ambiguity without it being unnecessarily inferred." She would reach the same result here even applying the "contract coverage" test. In addition, the Board adopted the judge's finding that the Respondent violated Section 8(a)(5) by refusing to provide certain information and delaying in providing other information requested by the Union about this unilateral action. [\[HTML\]](#) [\[PDF\]](#)

(Chairman Liebman and Member Schaumber participated.)

Charge filed by Teamsters Local 505, complaint alleged violations of Section 8(a)(5) and (1). Hearing at Huntington, Apr. 28-29, 2009. Adm. Law Judge David I. Goldman issued his decision on July 2, 2009.

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*Chrysler, LLC* (7-CA-51553; 354 NLRB No. 128) Auburn Hills, MI, Jan. 6, 2010. The Board adopted the administrative law judge's finding that the Respondent violated Section 8(a)(5) and (1) of the Act, by failing to comply with the Union's requests for information concerning the outsourcing of bargaining unit work at the Respondent's Auburn Hills, Michigan facility; and (2) reversed the judge's finding that the Respondent violated Section 8(a)(5) and (1) by failing to comply with the Union's request for information concerning the Respondent's ENVI hybrid vehicle program. [\[HTML\]](#) [\[PDF\]](#)

In adopting the judge's findings regarding the outsourcing information, the Board noted that the Respondent did not argue on exceptions that the Union waived its right to the information. The Board also disavowed the judge's reliance on the Respondent's failure to raise lack of relevance in its communications with the Union about the information requests, to the extent the judge's reliance on that factor could be interpreted as shifting the burden from the Union to establish relevance.

In reversing the judge's findings regarding the ENVI hybrid-vehicle program information, the Board observed that there was no record evidence that the ENVI program, in whole or in part, involved work within the jurisdiction of the particular bargaining unit involved in the case or that the program implicated unit employees' terms or conditions of employment.

(Chairman Liebman and Member Schaumber participated.)

Charge filed by Local 412, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW); complaint alleged violation of Section 8(a)(1) and (5). Hearing at Detroit on Mar. 3, 2009. Adm. Law Judge Ira Sandron issued his decision May 1, 2009.

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## NO ANSWER TO COMPLAINT

*(In the following cases, the Board granted the General Counsel's motion for summary judgment based on the Respondent's failure to file an answer to the complaint.)*

*CG's Lawn & Janitorial Service, LLC* (Technical and Professional Employees, OPEIU Local 4873) (15-CA-18985, 19144; 354 NLRB No. 126) Ft. Rucker, AL Jan. 4, 2010. [\[HTML\]](#) [\[PDF\]](#)

*Gerhard's Appliances, Inc.* (an Individual) (4-CA-37033; 354 NLRB No. 124) Fort Washington, PA Jan. 4, 2010. [\[HTML\]](#) [\[PDF\]](#)

*LBE, Inc.* (Teamsters Local 486) (7-CA-52240; 354 NLRB No. 125) Saginaw, MI Jan. 5, 2010. [\[HTML\]](#) [\[PDF\]](#)

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## TEST OF CERTIFICATION

*(In the following case, the Board granted the General Counsel's motion for summary judgment on the grounds that the Respondent has not raised any representation issue that is litigable in this unfair labor practice proceeding.)*

*Fred Meyer Stores, Inc.* (Food & Commercial Workers Local 367) (19-CA-32171; 354 NLRB No. 127) Lacey and Tumwater, WA Jan. 4, 2010. [\[HTML\]](#) [\[PDF\]](#)

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## LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

*(In the following case, the Board adopted the Report of the Regional Director or Hearing Officer in the absence of exceptions)*

## DECISION AND CERTIFICATION OF RESULTS OF ELECTION

*Hyatt Vacation Management Corp., d/b/a Hacienda del Mar*, Dorado, PR, 24-RC-08654, Jan. 6, 2010.

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*(Miscellaneous Board Order)*

**ORDER [granting motion to file Amicus Briefs]**

*Southern California Permanente Medical Group and Kaiser Foundation Hospitals,*  
Anaheim, CA, 21-RC-21117, Jan. 8, 2010.

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**DECISIONS OF ADMINISTRATIVE LAW JUDGES**

*Douglas AutoTech Corp.* (Autoworkers Local 822) Bronson, MI Jan. 5, 2010. 7-CA-51428;  
JD-61-09, Judge Paul Buxbaum.

*Lansing Automakers Federal Credit Union* (Office Professional Employees Local 459)  
Lansing, MI Jan. 5, 2010. 7-CA-52115; JD-62-09, Judge George Alemán.

*Cascade Boxboard Group-Connecticut, LLC* (Steelworkers Local 1840) Versailles, CT  
Jan. 8, 2010. 34-CA-12086, et al.; JD-64-09, Judge Wallace H. Nations.

*Daycon Products Co., Inc.* (Drivers, Chauffeurs and Helpers Local 639) Upper Marlboro, MD  
Jan. 8, 2010. 5-CA-35043; JD-03-10, Judge Bruce D. Rosenstein.

*NFI Industries, Inc.* (Warehouse Employees Local 169 a/w Teamsters) Burlington, NJ  
Jan. 8, 2010. 4-CA-36842; JD-01-10, Judge David I. Goldman.

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